

 **REPUBLIC OF SERBIA**

**PUBLIC PROCUREMENT**

 **OFFICE**

 Number: 110-00-4/2020-1

 Date: 4 January 2021

 **B e l g r a d e**

Pursuant to Article 49, paragraph 2 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19), the Acting Director of the Public Procurement Office enacts the following

**RULEBOOK**

**ON THE DETAILED REGULATION OF PUBLIC PROCUREMENT PROCEDURES, PROCUREMENT TO WHICH THE LAW DOES NOT APPLY AND PROCUREMENT OF SOCIAL AND OTHER SPECIAL SERVICES OF THE PUBLIC PROCUREMENT OFFICE**

**Subject-matter**

Article 1

This Rulebook regulates in more detail the way of planning, conducting public procurement procedures and monitoring the execution of public procurement contracts, the way of planning and implementing procurements to which the Law on Public Procurement (hereinafter referred to as: the Law) does not apply, as well as procurements of social and other special services, as a special procurement regime, of the Public Procurement Office (hereinafter referred to as: the Office).

**Terms**

Article 2

Certain terms used in this Rulebook shall have the following meanings:

1) **Public procurement** is the procurement based on a public procurement contract of goods, services or works procured by one or more contracting authorities from among economic operators selected by those contracting authorities, regardless of whether the goods, services or works are intended for public purposes;

2) **Procurement** is a procurement that is necessary for the performance of the contracting authority’s activities and is exempt from the application of the Law, i.e., a procurement to which the provisions of the Law do not apply, except for the principles of the Law in a manner appropriate to the circumstances of the specific procurement and which is carried out in accordance with the provisions of these Rulebook;

3) **Procurement of social and other special services** shall be considered public procurements provided for in Annex 7 to the Law, for which the Law prescribes a special procurement regime;

4) **The list of procurements** represents a record of all procurements to which the provisions of the Law do not apply.

Other terms used in this rulebook have the meaning prescribed by Article 2 of the Law.

**Communication in the public procurement procedure**

Article 3

Communication and data exchange in the public procurement procedure is carried out by electronic means on the Public Procurement Portal (hereinafter referred to as: the Portal), in the manner prescribed by Article 45 of the Law and the Instructions for the Use of the Public Procurement Portal (“Official Gazette of the Republic of Serbia”, No. 93/20).

The submission of parts of bids, applications, plans or designs (hereinafter referred to as: parts of bids) is done through the registry office of the Joint Services Administration, where mail is received, filed, distributed and delivered to the Office, in cases where the Law stipulates that communication and exchange of data by electronic means on the Portal is not mandatory in accordance with Article 45, paragraph 3 of the Law.

Article 4

In the registry office, mail is received by an employee in charge of receiving mail, in accordance with the schedule of working hours.

Received mail is recorded in the appropriate records on the same day it was received and under the date it was received and is immediately delivered to work.

Received parts of bids in the public procurement procedure, as well as amendments and revocations thereof, are recorded at the moment of receipt and on each part of the bid, i.e., changes, additions or revocation of a part of the bid, the date and exact time of receipt must be indicated.

If the employee referred to in paragraph 1 of this Article finds irregularities when receiving part of the offer (e.g., part of the bid was not marked as part of the offer and was opened, an open or damaged envelope, box with samples, etc. was delivered), he is obliged to make a note about it and deliver it to the Public Procurement Commission, that is, to the person appointed by the contracting authority in accordance with Article 92, paragraph 2 of the Law (hereinafter referred to as: the person conducting the procurement).

The received parts of the bids are kept by the employee in charge of receiving mail, in closed envelopes until the bids are opened, when they are handed over to the public procurement committee, i.e., the person conducting the procurement.

Receipt of partial bids is confirmed by the signature of the member of the Public Procurement Commission, i.e., the person conducting the procurement, in a separate record of received partial bids.

Employees in the registry office and employees in the Office who had access to the data on the submitted parts of the bids are obliged to keep the names of business operators, bidders, candidates, as well as the data on the submitted parts of the bids, as a business secret, until the bids are opened.

**The method of planning public procurements**

*Basic provisions*

Article 5

The Office adopts the annual public procurement plan, which contains the data prescribed by the Law.

The public procurement plan consists of all public procurements whose implementation is planned in the current budget year.

*Planning criteria*

Article 6

The criteria that are taken into account when planning each public procurement are:

1) whether the subject-matter of procurement is in the function of carrying out activities and in accordance with the planned goals defined in the relevant documents (regulations, standards, annual business programmes, adopted strategies and action plans, protocols, etc.);

2) whether the technical specifications and quantities of a specific subject-matter of procurement correspond to the actual needs of the contracting authority, that is, the end-user;

3) whether the estimated value is appropriate with regard to the objectives of the procurement, and taking into account the technical specifications, the necessary quantities and the state of the market (price and other conditions of procurement);

4) whether additional costs are incurred during procurement, what is the amount and nature of those costs, and whether procurement is necessary and cost-efficient;

5) whether there are other possible solutions to satisfy the same need and what are the advantages and disadvantages of those solutions compared to the existing ones;

6) inventory status, that is, monitoring and analysis of indicators related to the consumption of goods (daily, monthly, quarterly, annually, etc.);

7) collection and analysis of existing information and databases on selected bidders and concluded contracts;

8) monitoring and comparing the costs of maintenance and use of existing equipment in relation to the costs of purchasing new equipment, the profitability of the investment, the profitability of overhauling the existing equipment, etc.;

9) environmental advantage of the procurement subject-matter, energy efficiency and life cycle costs (acquisition cost, use and maintenance costs, as well as disposal costs after use);

10) risks and costs in case of non-implementation of the procurement procedure of goods, services or works, as well as the costs of alternative solutions.

*Participants in procurement planning*

Article 7

Procurement planning tasks are performed by the planning team.

The planning team consists of the director of the Office, deputy director, assistant directors, Group managers as well as other employees of the Office, and based on the written order of the director of the Office.

*Way of expressing the needs*

Article 8

All internal organisational units of the Office, when developing the Work Plan and Program and the Financial Plan, submit in writing the planned needs for the following year.

Needs must be expressed in appropriate quantitative units, described characteristics, quality and dynamics of needs, with an explanation of the reasons and expediency of the procurement.

Persons from the team collect, check the expressed needs and determine the actual needs for each purchase individually.

*Market research*

Article 9

Based on the determined needs for goods, services and works for the implementation of the planned activities of the Office, the procurement planning team determines the specifications of goods, services and works.

The established specifications are the basis for market research.

Article 10

The market research is carried out by the planning team or other experts designated by the Director of the Office for the purpose of preparing the public procurement procedure and informing business operators about their plans and requirements in relation to procurement.

Article 11

Market research is carried out by collecting data in the field, via the Internet, available databases and advertisements, depending on the quantity and type of goods, services and works.

Minutes are drawn up on the conducted market research, which in particular contain data on prices and their movement on the market, the availability of the necessary goods, services and works, their quality and warranty period, maintenance conditions, distribution channels and a list of potential suppliers for each item of procurement with their characteristics and a description of the state of competition on the market of the subject of procurement.

*Determining the subject-matter of procurement*

Article 12

Based on the obtained results of the market research, the estimated value of the required procurement items is determined, in order to prepare a financial plan proposal.

After the adoption of the financial plan, the planning team reconciles the established specifications with the approved financial resources and determines the subject-matter of each individual procurement.

Article 13

When deciding which procurements will be included in the procurement plan, the planning team analyses the priorities, taking into account first of all the needs for the regular performance of the activity and the need for the improvement of the activity, as well as the criteria for planning.

*Other tasks of the planning team*

Article 14

The planning team also performs the following tasks, in accordance with the provisions of the Law, namely:

* determines the type of subject matter of public procurement;
* decides on the division of public procurement items into lots;
* Proposes the duration of the contract, on which the final decision is made by the director of the Office;
* determines the estimated value of the public procurement and each lot, if the subject of the public procurement is designed by lot;
* Determines the estimated value of the framework agreement, dynamic procurement system and innovation partnership;
* determines the type of public procurement procedure for each public procurement;
* determines the approximate time for starting the procedure;
* Proposes that some procurements be carried out jointly with other contracting authorities, i.e., proposes to the Director to adopt a decision authorizing another contracting authority to carry out the public procurement procedure on behalf and for the account of the Office or to undertake certain actions in that procedure;
* proposes the implementation of reserved public procurement, if it is justified and expedient.

*Adoption and publication of the Public Procurement Plan*

Article 15

The Office shall prepare a Public Procurement Plan on the Portal.

After entering the data, the Office shall send the Public Procurement Plan for publication.

The Portal shall publish the Public Procurement Plan on the next day from the day the plan is sent for publication.

**The manner of conducting the public procurement procedure**

*Conditions for initiating the procedure*

Article 16

The Public Procurement Commission, i.e., the person conducting the procurement, submits a written request to the person responsible for initiating the public procurement procedure within the time limit indicated in the public procurement plan for the initiation of the procedure.

*Making a decision on the implementation of the public procurement procedure*

Article 17 of the

Decision to conduct a public procurement procedure, which contains all the necessary elements prescribed by the Law, is made by the Director of the Office.

*Implementation of the public procurement procedure*

 Article 18

The Public Procurement Commission, i.e., the person conducting the procurement, conducts the public procurement procedure through the Portal in the manner prescribed by the provisions of the Law and by-laws adopted for the purpose of implementing the Law.

**Obligations and responsibilities of persons and organisational units**

Article 19

The Director of the Office, or the Deputy Director, is responsible for making decisions on the implementation of the public procurement procedure, decisions terminating the public procurement procedure and concluding public procurement contracts.

The Public Procurement Commission, i.e., the person conducting the procurement, is responsible for the implementation of the public procurement procedure.

Acts in the public procurement procedure are prepared by the Public Procurement Commission, i.e., the person conducting the procurement.

The criteria for the qualitative selection of a business operator in the public procurement procedure are determined by the Public Procurement Commission, i.e., the person conducting the procurement, in accordance with the technical specification.

The technical specifications of the public procurement of goods and services are determined by the Public Procurement Commission, i.e., the person conducting the procurement. If necessary, the Public Procurement Commission, i.e., the person conducting the procurement, in order to prepare the technical specification, may seek the advice of independent experts, competent authorities or other economic operators, provided that this does not violate the principles of ensuring competition and prohibition of discrimination and equality of economic operators.

The technical specifications, as a mandatory part of the tender documentation, are determined in a way that will enable the contracting authority’s real needs to be met and at the same time enable a wide range of bidders to submit acceptable bids.

The technical specification for the public procurement of works consists of the complete technical documentation necessary for bidders to make an offer in the procedure of public procurement of works.

The criteria for awarding the contract, as well as the methodology for assigning weights for each criterion, the way of specifying, describing and evaluating the criteria in the tender documentation, are determined by the Public Procurement Commission, i.e., the person conducting the procurement, taking into account the type, technical complexity, duration, value of public procurement procurement, etc.

The contract model is drawn up by the Public Procurement Commission, i.e., the person conducting the procurement.

In the process of protecting the rights of the Public Procurement Commission, that is, the person conducting the procurement, are responsible for acting within the deadlines and according to the procedure prescribed by law.

The Public Procurement Commission, i.e., the person conducting the procurement, is responsible for monitoring the validity period of the financial security for the seriousness of the offer and acting in the event of the need to extend the validity period of the security until the conclusion of the public procurement contract. After the conclusion of the contract for monitoring the validity period of the financial security and acting in the event of the need to extend the validity period of the security, the Public Procurement Commission, that is, the person conducting the procurement, is responsible.

**Determining confidentiality**

Article 20

The Director of the Office is responsible for determining the confidentiality of data, who, for each specific procurement, submits information on confidential data to the members of the Public Procurement Commission, i.e., to the person conducting the procurement.

**Procurements to which the Law does not apply**

*Basic provisions*

Article 21

When conducting procurements to which the Law does not apply in accordance with the threshold values prescribed in Article 27 of the Law, i.e., procurements that are exempted from the application of the Law based on Art. 11-21 of the Law, the Office is obliged to act in accordance with the principles of the Law (the principle of efficiency and economy, the principle of ensuring competition and the prohibition of discrimination, the principle of transparency of the public procurement procedure, the principle of equality of economic entities and the principle of proportionality), and in the manner determined by the Law.

*Procurement planning*

 Article 22

The Office, in addition to the annual public procurement plan, also issues a list of procurements to which the Law does not apply.

When planning procurements to which the Law does not apply, the planning team, in addition to defining the type of procurement subject matter, the estimated value and the approximate time for starting the procurement, also specifies the grounds for exemption from the application of the Law for each individual procurement.

Before adopting the procurement list, the procurement planning team checks the existence of grounds for exemption from the application of the Law.

*Procurements whose estimated value is below the thresholds prescribed by Article 27 of the* *Law*

Article 23

Procurements whose estimated value is below the thresholds prescribed by Article 27 of the Law, the person responsible for the implementation of procurement procedures in the Office or the Commission, if the Director of the Office educates it for the needs of the implementation of the procurement, draws up an invitation to submit bids signed by the Director of the Office.

The invitation to submit bids, together with the bid form, i.e., with the tender documentation, if the Office deems that it is necessary for the implementation of the procurement, is sent to the addresses of at least three economic operators, which, to the Office’s knowledge, are capable of carrying out the procurement, except in justified situations when the subject matter of procurement is offered on the market by only one business operator.

The invitation to submit bids, the bid form, that is, the tender documentation contain the necessary data and requirements for the implementation and execution of the procurement.

Bids are submitted in the manner specified in the call for bids, electronically or via the registry office.

The Office can negotiate the price with the bidders who have submitted bids.

The Office, following the procurement procedure, whose estimated value is below the thresholds prescribed in Article 27 of the Law, may conclude a contract or framework agreement with the selected bidder or issue a purchase order.

*Procurements that are exempted from the application of the Law based on Art. 11-21 of the* *Law*

Article 24

For procurements that are exempted from the application of the Law based on Art. 11-21 of the Law, and the estimated value of which is over RSD 5,000,000.00, including RSD 5,000,000.00, the person responsible for the implementation of procurement procedures in the Office or the Commission, if the Director of the Office establishes it for the needs of the implementation of the procurement, prepare tender documentation that contains all the necessary data and requirements for the implementation and execution of the procurement, in accordance with the regulations, and depending on the subject-matter of the procurement.

For procurements whose estimated value is below the amount referred to in paragraph 1 of this Article, a person or committee draws up an invitation to submit bids signed by the director of the Office, which is sent to the addresses of business operators that are according to the knowledge of the Office, able to perform the procurement.

In the case of the need for procurement from paragraph 1 of this article, which are exempted from the application of the Law based on Art. 11-19. of the Law, the call for bids and tender documents are published on the website of the Office, except in the case of application of Article 12, paragraph 1, item 11 of the Law, when the Office, regardless of the estimated value of the procurement, directly addresses the holder of the exclusive right to conclude the contract. The Office may also send invitations to submit bids and tender documents to the addresses of business operators that it knows are capable of performing the procurement.

For procurements that are exempted from the application of the Law based on Art. 20-21 of the Law, the Office sends the call for tenders and tender documentation to the addresses of economic entities that, according to the Office’s knowledge, are capable of performing the procurement.

Bids are submitted in the manner specified in the call for bids and tender documentation, electronically or through the office.

The Office can negotiate the price with the bidders who have submitted bids.

The office, following the implemented procurement procedure, which is exempted from the application of the Law based on Art. 11-21 of the Law, depending on the value of the procurement, the nature and purpose of the procurement subject, may conclude a contract or framework agreement with the selected bidder or issue a purchase order.

In accordance with Article 109, paragraph 5 of the Law, the Office can publish a notice for voluntary prior transparency, for procurements carried out based on the provisions of Art. 11-21 of the Law.

**Social and other special services**

Article 25

The Office can award a contract or framework agreement for social and other special services listed in Annex 7 of the Law, in accordance with the provisions of the Law and this Rulebook.

The Office procures services referred to in paragraph 1 of this Article in an open procedure, a restrictive procedure, a competitive procedure with negotiation and a negotiated procedure without publishing a public invitation.

The Office is obliged to respect the principles of public procurement in the contract and framework agreement award procedure, in particular the principles of transparency, equality of bidders and economy.

The Office determines appropriate deadlines for submitting bids and applications, especially taking into account the complexity of the procurement subject matter and the time required to prepare applications and bids, with the fact that the deadlines cannot be shorter than 7 days from the day of sending the public call for publication, i.e., sending the invitation for submission offer, in the case of a negotiation procedure without publication of a public invitation.

In the case of social and other special services, the estimated value of which is less than RSD 15,000,000, the Office acts in accordance with the provisions of this rulebook that refer to procurements whose estimated value is below the thresholds prescribed in Article 27 of the Law.

**Funds for the implementation of public procurement contracts, framework agreement or purchase order**

 Article 26

The confirmation of the existence of funds in the budget/financial plan/decision on temporary financing, for the realisation of a specific public procurement, i.e., procurement, is issued by the head of the Group for financial and material affairs by initialing the decision on the award of the contract, framework agreement or purchase order as well as the contract on public procurement, framework agreement or purchase order.

**Manner of monitoring the execution of a public procurement contract**

*Rules of communication with the other contracting party*

*related to the execution of the contract*

Article 27

Communication with the other contracting party (hereinafter referred to as: the selected bidder), in connection with the execution of the public procurement contract, takes place exclusively in writing, that is, by mail, e-mail or fax.

Communication with the selected bidder in connection with the execution of the public procurement contract can be carried out by the members of the Commission for qualitative and quantitative reception or a person authorised by the director of the Office.

Immediately after the conclusion of the contract on public procurement, the office informs the selected bidder about the contact information of the person from the previous paragraph of this Article.

*Designation of persons for monitoring the execution of public procurement contracts*

Article 28

The Director of the Office, after concluding the contract, shall establish a Commission for the Acceptance of Goods and Services by decision.

During the establishment of the Commission, the Director of the Office is obliged to take care that the professional competence of the members of the committee is logically related to the nature and specifics of the subject of the contract.

The Commission referred to in paragraph 1 of this Article will also perform other necessary actions in connection with monitoring the execution of public procurement contracts.

The Director of the Office, by decision, shall establish a Commission for the Acceptance of Works, after the conclusion of the contract and after obtaining a positive report of the Commission for Technical Inspection of Works (in the case of works for which the Law on Planning and Construction stipulates the obligation of technical inspection of works), formed by the competent authority in in accordance with the Law on Planning and Construction.

*Criteria, rules and method of checking the quantity and quality of delivered goods, provided services or performed works*

Article 29

The Commission for the Acceptance of Goods and Services, or the Acceptance of Works, checks:

* whether the quantity of delivered goods, services provided or works performed corresponds to the contracted amount;
* whether the type and quality of delivered goods, provided services or performed works correspond to the agreed, that is, whether they are in accordance with the required technical specifications and the offer.

Checking the quality and quantity of works, during execution and after completion of works, is carried out by providers of expert supervision and technical inspection services.

The tasks of the Commission are determined by the decision on the establishment of the Commission.

*Document on the completed receipt of goods, services or works*

Article 30

The persons appointed to perform the qualitative and quantitative reception of goods, services or works, draw up the minutes of the receipt of goods, services or works, which confirms the receipt of a certain quantity and the requested type of goods, services or works, and the receipt of the necessary documentation (contract, delivery note, test report, certificates, etc.), as well as that the delivered goods, services or works correspond in everything to the agreed.

The minutes shall be signed by the person referred to in paragraph 1 of this Article and the authorised representative of the selected bidder and shall be made in two identical copies, of which one copy shall be retained by each contracting party.

The minutes of receipt of goods, services or works make an integral part of the documentation for the execution of the contracted financial obligations of the Office, as a contracting party.

*Rules of procedure in the case of complaints related to the execution of the contract*

Article 31

In the event that, during the receipt, it is determined that the quantity or quality of the delivery does not correspond to what was agreed in the contract, the receipt is not carried out and the minutes on the receipt is not drawn up, but the receipt committee draws up and signs the complaint minutes, which states why the delivery is not in accordance with what was agreed in the contract.

The minutes referred to in the previous paragraph are also signed by the authorised representative of the selected bidder, who receives a copy of the minutes.

Complaint handling is governed by a contract, in accordance with the law governing contractual relationships and other regulations governing this area.

The Commission has the option of receiving a partial delivery, provided that this part of the delivery corresponds to the agreed quality and that the agreed payment is not conditional on the complete delivery.

The members of the Commission and the authorised representative of the selected bidder, after removing the objections given during the receipt, sign the receipt minutes.

*Rules of procedure for implementation of the contracted*

*means of financial security*

Article 32

The Public Procurement Commission, the person who conducts the procurement, the person responsible for the implementation of procurement procedures in the Office, that is, the committee, if the director of the Office educates it for the needs of the implementation of the procurement, ensure compliance with the contractual obligations of the selected bidder in terms of financial security.

After the delivery of the contracted means of financial security, the persons referred to in paragraph 1 of this Article shall check their correctness.

The means of financial security are kept by the Group for Financial and Material Affairs.

The persons referred to in paragraph 1 of this Article shall monitor the occurrence of circumstances that require the extension of the validity period of the provided financial security funds and take care of undertaking activities to return the financial security funds to the selected bidder.

In the event that they determine the reasons for the implementation of the contracted means of financial security, the persons referred to in paragraph 1 of this Article shall check the fulfillment of the conditions for the activation of the contracted means of financial security.

If the conditions for the performance of the contracted means of financial security are met, the means in question is submitted to the bank for collection.

The Group for Financial and Material Affairs keeps records of activated contracted means of financial security, on which it prepares an annual report.

Article 33

The provisions of Art. 27-32 of this Rulebook also refer to the monitoring of the execution of contracts, framework agreements or purchase orders, which were concluded after the implementation of the procurement procedure to which the Law does not apply.

**Transitional and final provisions**

Article 34

On the date of the start of the implementation of this Rulebook, the Rulebook on Procurement of the Public Procurement Administration No. 110-00-22/2015-01 of 12 October 2015 shall cease to be valid.

Article 35

Procedures that have not been completed by the date of entry into force of this rulebook will be completed according to the provisions of the regulations that were in force until the date of entry into force of this Rulebook.

Article 36

This Rulebook shall enter into force on the following day from the day of its publication on the notice board of the Office.

Number: 110-00-4/2020-1

In Belgrade, dated 4 January 2021

 Acting Director

Sandra Damčević